services as an officer rendered outside his duties as a director is void if the director's vote is needed to pass the resolution or make up a quorum of the board. *Bennett* v. *St. Louis Car Roofing Co.*, 19 Mo. App. 349; *Butts* v. *Wood*, 37 N. Y. 317. But where the director's vote is not necessary for the adoption of the resolution it will not necessarily be void because he voted for it. *Clark* v. *American Coal Co.*, 86 Iowa 436, 53 N. W. 291. But, on the other hand, it is held that where the director of a corporation, at its request, performs services which are clearly outside the duties imposed on him as a director, he may recover for the services rendered, either on the express or implied contract. *Chandler* v. *Bank*, 1 Green (N. J.) 255; *Santa Clara Mining Ass'n* v. *Meredith*, 49 Md. 389, 33 Am. Rep. 264; *Hall* v. *Vermont, etc.*, R. Co., 28 Vt. 401; *Ten Eyk* v. *Pontiac, etc., R. Co.*, 74 Mich. 226, 41 N. W. 905, 16 Am. St. Rep. 633.

It has also been held that the compensation for such services by a director must be fixed before he enters upon the duties of his office. *Holder* v. *Lafayette, etc., R. Co.*, 71 Ill. 106, 22 Am. Rep. 89; *Kilpatrick* v. *Penrose, etc., Co.*, 49 Pa. St. 118, 88 Am. Dec. 497. Even where the by-laws of the corporation state that the salaries of the officers are to be fixed by the board of directors, but no action was ever taken by them, the officers cannot recover for their services. *Wood* v. *Lost Lake, etc., Co.*, 33 Ore. 20, 23 Pac. 848, 37 Am. St. Rep. 651. See *Illinois Linen Co.* v. *Hough*, 91 Ill. 63.

CRIMINAL LAW—FORMER JEOPARDY—PUNISHMENT BOTH UNDER STATE STATUTE AND CITY ORDINANCE.—The defendant was convicted under a state statute for the illegal sale of liquor. In a subsequent prosecution for the same act under a city ordinance, the defendant pleaded former jeopardy. *Held*, the prosecution under the state statute is no bar to a subsequent prosecution for the same act under a city ordinance. *Shreveport* v. *Nejin* (La.), 73 South. 313. See NOTES, p. 486.

DAMAGES—PERMANENT STRUCTURE—PAST AND FUTURE LOSSES.—The defendant built a dam on his own land across a natural water course, which caused water to back on and overflow the land of the plaintiff, destroying the crops on the land for several years. The plaintiff brought an action to recover for the damages to the land and the destruction of the crops. *Held*, the plaintiff is entitled to recover only for the destruction of the first crop and the injury to his land, both past and future. *Norfolk County Water Co.* v. *Etheridge* (Va.), 91 S. E. 133.

The adjudged cases are at variance as to the proper measure of damages to be awarded against a defendant who erects a permanent structure on his own land which injures the land of another. Some courts have adopted the rule that injuries to land caused by permanent structures, which in the normal course of things will continue indefinitely and which will undergo no change from any cause but human labor, create but one cause of action, and it is proper to assess damages in one action for both the past and future injuries to the land. 1 SEDG-

WICK, DAMAGES, 9 ed., § 94. See *Virginia Hot Springs Co.* v. *McCray,* 106 Va. 461, 56 S. E. 216, 10 L. R. A. (N. S.) 465; *Worley* v. *Mathieson Alkali Works* (Va.), 89 S. E. 880. Other courts, looking more to the nature of the injury than to the character of the structure, declare that the law will not presume that one will continue to injure the land of another, and that hence the continuing injury is made up of a succession of trespasses by the defendant. *Schlitz Brewing Co.* v. *Compton,* 142 Ill. 511, 32 N. E. 693, 18 L. R. A. 390. Obviously, under this rule only damages suffered up to the time of the commencement of the suit can be assessed; but the plaintiff has a right of action as long as the injury continues. *Aldworth* v. *City of Lynn,* 153 Mass. 53, 26 N. E. 229, 25 Am. St. Rep. 608, 10 L. R. A. 210; *Schlitz Brewing Co.* v. *Compton, supra.* An exception to this rule, which seems sound on principle, exists where the building of the permanent structure is authorized by law—such as the building of a railroad—and here it is proper to recover all damages, past and future, in one action. *Fowle* v. *New Haven & N. Co.,* 107 Mass. 352; *Chicago, etc., R. Co.* v. *Loeb,* 118 Ill. 203, 8 N. E. 460, 59 Am. Rep. 341. Still another class of cases, to which the principle case seems to belong, look both to the character of the structure and to the nature of the injury, and allow compensation once for all whenever the structure is permanent and its construction and continuance constitute a complete original injury. *Bizer* v. *Ottumwa Hydraulic Power Co.,* 70 Iowa 145, 30 N. W. 172. See *Troy* v. *Cheshire Railroad Co.,* 23 N. H. 83, 55 Am. Dec. 177. If, however, the structure is not permanent, or the nature of the injury is not permanent and complete, there should be a recovery for damages only to the time of the commencement of the action. *Harvey* v. *Mason City, etc., Ry. Co.,* 129 Iowa 465, 105 N. W. 958, 113 Am. St. Rep. 483, 3 L. R. A. (N. S.) 973; *St. Louis, etc., R. Co.* v. *Biggs,* 52 Ark. 240, 12 S. W. 331, 6 L. R. A. 804.

The last class of cases must not be confused with those cases in which the tortfeasor goes on the land of the plaintiff and there erects a structure. In this situation, by the better view, the plaintiff must recover all damages, both past and future, in one action; for, in order to remove the structure, the defendant would be compelled to commit another trespass, and "the law will not be so foolish as to presume that one will commit a trespass." *Kansas Pacific Ry. Co.* v. *Mihlman,* 17 Kan. 224.

EMINENT DOMAIN—RIGHTS OF LANDOWNER—RECOVERY OF LAND NOT IN PUBLIC USE.—The defendant railroad company was in actual possession of land claimed by the plaintiffs. After a period of fifty years, during which time the plaintiffs neither occupied any of the land nor contested the title thereto, they brought a suit in equity to quiet title to the land, alleging that a portion of it was not needed for railroad use. *Held,* the action will not lie. *Ennis-Brown Co.* v. *Central Pac. Ry. Co.,* 235 Fed. 825.

EQUITY—JURISDICTION—FAILURE TO PLEAD ADEQUATE REMEDY AT LAW.—The plaintiff filed a bill in equity to enjoin an action against him by the defendant in the courts of Vermont. The defendant answered gen-